



Public Notice

U.S. Army Corps
of Engineers
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 200200874

Date: April 21, 2004

Notice No. 04-16

Closing Date: May 12, 2004

AFTER-THE-FACT

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. APPLICANT: Home Depot USA, Inc.
1400 West Dundee Road
Arlington Heights, IL 60004

AGENT:

Burgess & Niple, Inc.
5085 Reed Road
Columbus, OH 43220

3. LOCATION: in a tributary to Middle Fork Little Beaver Creek, in Salem, Mahoning County, Ohio.

4. PURPOSE AND DESCRIPTION OF WORK: The applicant is proposing to build a new retail store. The site encompasses approximately 15.5 acres and for the past 10 years has been used for a topsoil operation. There were 450 feet of the headwaters of an unnamed tributary to the Middle Fork Little Beaver Creek on-site. A Nationwide Permit #39 was issued in August 2002 to fill 210 feet of the stream. In addition to the authorized fill, an additional 240 feet of stream was eliminated by a party working for neither the applicant nor the owner of the property. To compensate for the stream impacts, approximately 900 linear feet of Yankee Creek and its riparian corridor located in Trumbull County will be preserved at a consolidated wetland mitigation site to be undertaken by the Ohio Wetland Foundation. This area will be protected through a permanent conservation easement to be held by the Ohio Department of Natural Resources. Additionally, mitigation sites in the Little Beaver Creek watershed are being investigated. This Public Notice serves as formal notification for a cease and desist order of any further stream work until a final permit is issued. The project proposes to also fill an approximate 1.38 acre pond that was constructed by the owner of the property.

5. WATER QUALITY CERTIFICATION: A Permit will not be granted until Water Quality Certification is received or waived from:

Ohio Environmental Protection Agency (Ohio EPA)
Section 401 Coordinator
P.O. Box 1049
Columbus, Ohio 43266-0149

Telephone Number: 614-644-2001

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. Potential summer roosting habitat for the Indiana bat exists on the site in the form of mature trees. No trees will be cut between April 15 and September 15 to minimize impacts to this species. The project area lies within the range of the bald eagle but it has been determined that the project will have no effect on this species. This Public Notice serves as a request to the U. S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

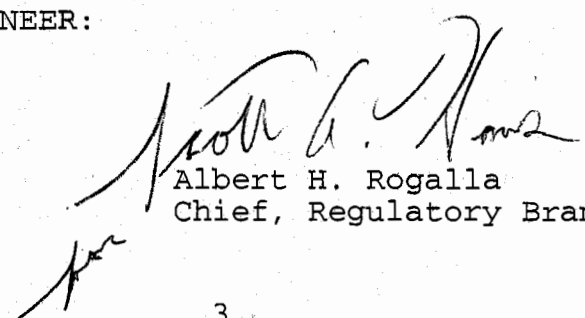
8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important

resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Nancy Mullen, at the above address, by telephoning (412) 395-7170, or by e-mail at Nancy.J.Mullen@lrp02.usace.army.mil. Please refer to CELRP-OR-F 200200874 in all responses.

FOR THE DISTRICT ENGINEER:



Albert H. Rogalla
Chief, Regulatory Branch



SITE LOCATION

8730 SALEM-UNITY ROAD
SALEM, OHIO
Salem Quad
SITE LOCATION MAP

BURGESS AND NIPLE, LTD.
ENGINEERS & ARCHITECTS

SCALE: 1"=2000'
DATE: OCT. 2003